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Administrative Appeal Decision - Abdullah, John (2019-03-22)

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STATE OF NEW YORK – BOARD OF PAROLE

ADMINISTRATIVE APPEAL DECISION NOTICE

Name: Abdullah, John

Facility: Woodbourne CF

NYSID: [REDACTED]

Appeal
Control No.: 12-117-18 B

DIN: 81-B-2514

Appearances: Glenn Kroll Esq.
92 Main Street
P.O. Box 10
Bloomingburg, New York 12721

Decision appealed: December 2018 decision, denying discretionary release and imposing a hold of 15 months.

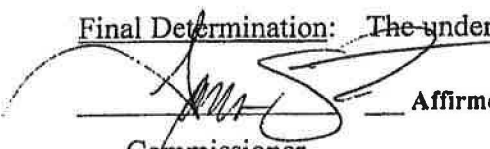
Board Member(s)
who participated: Shapiro, Berliner, Drake

Papers considered: Appellant's Brief received June 5, 2019


Appeals Unit Review: Statement of the Appeals Unit's Findings and Recommendation

Records relied upon: Pre-Sentence Investigation Report, Parole Board Report, Interview Transcript, Parole Board Release Decision Notice (Form 9026), COMPAS instrument, Offender Case Plan.

Final Determination: The undersigned determine that the decision appealed is hereby:

 Affirmed ☒ Vacated, remanded for de novo interview Modified to
Commissioner

 Affirmed ☒ Vacated, remanded for de novo interview Modified to
Commissioner

 Affirmed ☒ Vacated, remanded for de novo interview Modified to
Commissioner

If the Final Determination is at variance with Findings and Recommendation of Appeals Unit, written reasons for the Parole Board's determination must be annexed hereto.

This Final Determination, the related Statement of the Appeals Unit's Findings and the separate findings of the Parole Board, if any, were mailed to the Inmate and the Inmate's Counsel, if any, on 10/8/19.
LB

STATE OF NEW YORK – BOARD OF PAROLE

APPEALS UNIT FINDINGS & RECOMMENDATION

Name: Abdullah, John

DIN: 81-B-2514

Facility: Woodbourne CF

AC No.: 12-117-18 B

Findings: (Page 1 of 1)

Appellant challenges the December 2018 determination of the Board, denying release and imposing a 15-month hold. Appellant's instant offense involved the stabbing death and sexual abuse of a 13 year old girl. Appellant raises the following issues: 1) the decision is arbitrary and capricious in that the Board failed to consider and/or properly weigh the required statutory factors. 2) the Board decision violated his due process constitutional liberty interest in a legitimate expectation of early release. 3) the Board decision was not proven by a preponderance of the evidence. 4) the decision illegally resentenced him to life without parole. 5) the Board is punishing the appellant for taking his case to trial. 6) the decision lacks future guidance. 7) the decision is incorrect when it says appellant lacks remorse and insight. 8) as the appellant was only 17 years old when he committed this crime, and he has a life sentence, the Board never complied with the requirement of considering youth and its attendant circumstances. 9) the 15 month hold is excessive.

The Parole Board decision makes no reference at all to the issue of appellant's youthful age at the time of the crime. While the interview did have discussion about appellant's lifestyle at the age of 17, and of the programming he has done in prison, there is insufficient discussion as to whether appellant has adequately matured and how he would deal with the same scenario today. As such, since a required factor was not adequately discussed, and doesn't even appear in the decision, a de novo is warranted.

Recommendation: Vacate and remand for de novo interview.